

## CCRB INVESTIGATIVE RECOMMENDATION

|  |  |                                     |   |                                    |  |
|--|--|-------------------------------------|---|------------------------------------|--|
| Investigator:<br>Tessa Yesselman                 | Team:<br>Squad #4  | CCRB Case #:<br>202003881           | <input checked="" type="checkbox"/> Force             | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.              |
|  |  |                                     | <input type="checkbox"/> Abuse                        | <input type="checkbox"/> O.L.      | <input checked="" type="checkbox"/> Injury |
| Incident Date(s)<br>Sunday, 05/31/2020 12:04 AM  | Location of Incident:<br>DeKalb Avenue and Flatbush Avenue Extension | Precinct:<br>88                     | 18 Mo. SOL<br>11/30/2021                              | EO SOL<br>5/4/2022                 |  |
| Date/Time CV Reported<br>Wed, 06/03/2020 8:00 PM | CV Reported At:<br>CCRB  | How CV Reported:<br>On-line website | Date/Time Received at CCRB<br>Wed, 06/03/2020 8:00 PM |                                    |  |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| [REDACTED]         | [REDACTED] | [REDACTED]   |
| [REDACTED]         | [REDACTED] | [REDACTED]   |

| Witness(es) | Home Address |
|-------------|--------------|
| [REDACTED]  | [REDACTED]   |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------|--------|-------|---------|
| 1. An officer      |        |       |         |

| Witness Officer(s)    | Shield No | Tax No | Cmd Name |
|-----------------------|-----------|--------|----------|
| 1. POM Aaron Husbands | 04274     | 965752 | 079 PCT  |

| Officer(s)    | Allegation   | Investigator Recommendation |
|---------------|--|-----------------------------|
| A. An officer | Force: An officer struck § 87(2)(b) with a baton.      | [REDACTED]                  |
| B. An officer | Force: An officer struck § 87(2)(b) with a shield.     | [REDACTED]                  |
| C. An officer | Force: An officer struck § 87(2)(b) with a baton.      | [REDACTED]                  |
| D. An officer | Force: An officer used pepper spray against § 87(2)(b) | [REDACTED]                  |

## Case Summary

On June 3, 2020, § 87(2)(b) filed this complaint with the CCRB using the online website on behalf of § 87(2)(b) (**01 Board Review**). § 87(2)(b) is § 87(2)(b)'s attorney and did not witness this incident.

On May 30, 2020, at approximately 9:00 PM, § 87(2)(b) attended a protest against police brutality in the vicinity of the Barclays Center in Brooklyn. § 87(2)(b) remained at the protest for several hours. At approximately 12:01 AM on May 31, 2020, an officer pushed § 87(2)(b) using a baton (**Allegation A: force, § 87(2)(g)**), pushed § 87(2)(b) using a plastic tactical shield (**Allegation B: force, § 87(2)(g)**), and struck § 87(2)(b) in the face with a baton (**Allegation C: force, § 87(2)(g)**). The officers ran away, and § 87(2)(b) fell to the ground. A group of unidentified civilians helped pull him back towards a building. An officer approached the general area § 87(2)(b) was in and said, "Clear the area." The officer pepper sprayed the general area (**Allegation D: force, § 87(2)(g)**). § 87(2)(b) stood up and walked away but had to sit down shortly after because he was dizzy. Two EMT's helped § 87(2)(b) into an ambulance.

The CCRB obtained cell phone video of this incident (**03 Board Review-05 Board Review**).

There was media coverage of this incident (**02 Board Review**).

No arrests were made or summons issued as a result of this incident.

## Findings and Recommendations

**Allegation (A) Force: An officer struck § 87(2)(b) with a baton.**

**Allegation (B) Force: An officer struck § 87(2)(b) with a shield.**

**Allegation (C) Force: An officer struck § 87(2)(b) with a baton.**

**Allegation (D) Force: An officer used pepper spray against § 87(2)(b)**

## Known facts and general descriptions

§ 87(2)(b) stated (**12 Board Review**) that on the night of May 30, 2020, into May 31, 2020, he participated in a protest in the vicinity of the Barclays Center in Brooklyn. At some point between 11:00 PM and 12:00 AM, officers began yelling for protestors to clear the street and get on the sidewalk. § 87(2)(b) did not move because he was already on the sidewalk. § 87(2)(b) observed people throwing bottles across the street. Many of the officers ran the opposite direction from § 87(2)(b) towards where the bottles were being thrown from. § 87(2)(b) was holding his phone and began recording the officers as they ran. PO1, PO2, and PO3 approached § 87(2)(b). PO2 and PO3 walked towards § 87(2)(b). PO2 was on the left and PO3 was on the right. PO1 stood behind PO2 and PO3 and walked towards § 87(2)(b). All the officers said, "Move back." § 87(2)(b) tried to back up, but he was already on the sidewalk and the sidewalk was full of people, so he was unable to step back. Almost immediately, the officers walked through § 87(2)(b) causing him to stumble back. § 87(2)(b) said, "Don't touch me, I'm recording." § 87(2)(b) turned the flash on, because he wanted the officers to know that he was recording their actions. PO2 or PO3 pushed § 87(2)(b) backwards using a baton. The baton made contact in the area of § 87(2)(b)'s shoulders and torso. Almost immediately after, either PO2 or PO3 used a plastic shield to shove § 87(2)(b) backwards, which caused § 87(2)(b) to stumble backwards. PO1 used his baton and struck § 87(2)(b) on the right side of his face, near his right eye. § 87(2)(b) fell to the ground and PO1 stood over him and struck him multiple times with the baton. § 87(2)(b) was not sure specifically how many times he was struck with the baton or where on his body he was struck because he was in shock from being hit in the face with the baton and was trying to protect his face and body on the ground. § 87(2)(b) was also unable to see out of his right eye because he was bleeding heavily.

§ 87(2)(b) thought he may have been struck on his left shoulder, his back, and his right foot and leg.

Multiple protestors saw what PO1, PO2, and PO3 were doing, and ran towards them yelling at them to stop. PO1, PO2, and PO3 ran away, and left § 87(2)(b) laying on the ground. A couple of protestors helped § 87(2)(b) scooch backwards, so that he was leaning against a building. A large group of police officers approached § 87(2)(b) and the protestors standing around them and told them to, "Clear the area." PO4 was in this group of officers. PO4 held his plastic shield in front of his face and used his other arm to start pepper spraying the area. § 87(2)(b) felt panicked when PO4 started pepper spraying and stood up and started walking away. An ambulance drove up to § 87(2)(b) and two EMT's helped him get inside. § 87(2)(b) was taken to a hospital, but he did not recall what hospital it was. No officer rode in the ambulance with him. § 87(2)(b) was diagnosed with a broken orbital bone, tearing in his eye, sinus damage, nerve damage to his face, and further fractures to the right side of his face and skull. § 87(2)(b) provided photographs of injuries to his eye, shin, knee, and elbow (**Board Review 7-9**).

§ 87(2)(b) described the officers who used force against him as males, wearing blue uniforms with a helmet who carried batons and shields.

§ 87(2)(b) provided the investigation with a cell phone video of the incident (**05 Board Review**). The video is nine seconds long, in color, and with audio throughout. At :00, PO1 is standing on the left side of the frame with his hands tucked into the front of his collar. PO1 is shown again at :02 with his hands still in his collar. He has a black helmet on which sits lopsided and appears to have dark hair and dark eyes. He is wearing his shield on the front of his uniform but it is not legible in the video. At :03 the video begins to pan right and PO2 and PO3 are shown standing next to PO1, forming a line in front of § 87(2)(b). PO2 is holding a shield. PO3 is holding a baton. PO2 and PO3 appear to be white males. PO3 appears to be somewhat heavy set. At :04, officers say, "Get back, get back, get back," and rapidly move closer to § 87(2)(b). § 87(2)(b) says, "Don't touch me, don't touch me." At :05 it appears that the officers make contact with § 87(2)(b) because the video starts to jerk, and the picture is not clear. The video ends with the officers repeating, "Get back," and § 87(2)(b) saying, "Don't touch me." Due to the brevity and quality of the video, the investigation was unable to get detailed officer descriptions from it.

§ 87(2)(b) (**17 Board Review**) stated that she saw multiple officers use force against § 87(2)(b). She could not describe what the officers looked like or what specific force they used against § 87(2)(b). § 87(2)(b) did not know § 87(2)(b) prior to this incident. Another protester, also unknown to § 87(2)(b), gave § 87(2)(b)'s backpack because it had fallen off when he fell to the ground after the officers used force against him. § 87(2)(b) called his cellphone from the hospital and § 87(2)(b) returned his backpack to him.

### **Body Worn Camera**

A request to the NYPD Legal Bureau yielded negative results for BWC footage related to this incident (**10 Board Review**).

Three additional complaints (CCRB case numbers: 202005197, 202003790, and 202004333) were filed with the CCRB that shared the same date, location, and approximate time. Seven BWC requests were submitted for these complaints. One of the requests was pending at the time of the writing of this report and the remaining six returned negative results.

### **NYPD Documents Reviewed**

The investigation obtained an Event Summary (**24 Board Review**), the Roll Call from the 88<sup>th</sup> Precinct (**22 Board Review**), the Patrol Borough Brooklyn North (PBBN) Detail Memoranda (**18 Board Review**), the SRG 3 Roll Call (**19 Board Review**), and the Resource Recap Log from the 88<sup>th</sup> Precinct (**23 Board Review**). The investigation requested documents specifically for § 87(2)(b) (TRI, Aided, Warrant Audit), and received negative results (**13 Board Review**).

The PBBN Detail Memoranda (**18 Board Review**) lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541.

The Event Summary (**24 Board Review**) listed EVENT #D200503027247 as happening in the same vicinity and at the same approximate time as this incident. Six units are listed as responding, with one of the units requesting additional units to come to the location. The job details that officers responded to the location to assist in rendering aid for multiple injured MOS, a female victim who complained of being groped, a male who complained of being knocked to the ground by an officer (this complaint is being investigated under CCRB case 202003790), and a disorderly group throwing debris.

The Resource Recap Logs (**23 Board Review**) provided information relating to twenty jobs in the same general area and time of this incident. The log also lists multiple instances of units calling for additional officers to come to the location to back and support units already on the scene.

### **Concurrent Investigations**

IAB Group 54 is conducting a concurrent investigation. Sergeant Samantha Cabrera is the assigned investigator. At the time of the writing of this report, Sgt. Cabrera had not interviewed § 87(2)(b) and had not identified any subject officers (**14 Board Review**).

### **Ranking Officers**

This protest occurred before the citywide curfew was implemented. The fluidity and sudden nature of the protest muddies the task of identifying the highest-ranking officer. The highest-ranking officers known to be present were the rank of Lieutenant, including Lieutenant Ryan White and Lieutenant Anthony Vassallo, both of the 88<sup>th</sup> Precinct (**22 Board Review**).

### **Officers Interviewed**

On September 17, 2020, the CCRB interviewed Police Officer Aaron Husbands of the 79<sup>th</sup> Precinct (**15 Board Review**). PO Husbands was identified via the cell phone video provided to the investigation by § 87(2)(b). The video shows PO Husbands in the background and does not show PO Husbands interacting with § 87(2)(b) (**05 Board Review**). PO Husbands was identified by the shield number printed on his helmet (**11 Board Review**).

PO Husbands did not recognize any officer in the cell phone video besides himself. PO Husbands did not recognize § 87(2)(b). PO Husbands did not make any memo book entries relevant to this incident and did not activate his BWC during this incident.

On January 21, 2021, the CCRB interviewed Lt. Vassallo (**26 Board Review**). Lt. Vassallo stated that he responded to a call placed over the citywide frequency for officers to respond to a protest at

Flatbush Avenue and Dekalb Avenue in Brooklyn. Lt. Vassallo arrived at the protest at approximately 11:10 PM and left the location to go to the 88<sup>th</sup> Precinct stationhouse at approximately 11:45 PM. The CCRB showed Lt. Vassallo the cell phone video provided by § 87(2)(b) (05 Board Review) and a photograph of § 87(2)(b). Lt. Vassallo did not recognize § 87(2)(b) or recall witnessing the incident in the cellphone video. Lt. Vassallo did not recognize any officer shown in the cell phone video.

Lt. Vassallo stated that there were hundreds of police officers present, both from the 88<sup>th</sup> Precinct and from around the city. There were multiple officers wearing white shirts who were his rank and above. Lt. Vassallo could not name any officer of a higher rank than him who was present at the location. Lt. Vassallo did not later learn the names of any higher ranking officers who were at the protest.

### **Allegation Recitation and Disposition**

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

This is the first complaint to which § 87(2)(b) has been party (**21 Board Review**).

### **Mediation, Civil and Criminal Histories**

- This complaint was unsuitable for mediation.
- § 87(2)(b)
- § 87(2)(b) filed a Personal Personal Injury Claim with the Office of the New York City Comptroller on behalf of § 87(2)(b) and is seeking \$10,000,000 as redress. § 87(2)(b) wrote that § 87(2)(b) suffered a fractured eye socket and that § 87(2)(b)'s damages include, physical injury, loss of liberty, psychological and physical distress, physical pain and suffering, and violations of rights guaranteed by the Federal and New York State Constitutions (**25 Board Review**).

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Squad No.: 4

Investigator: Tessa Yesselman SI Tessa Yesselman 02/18/2021  
Signature Print Title & Name Date

Squad Leader: Raquel Velasquez IM Raquel Velasquez 02/18/2021  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date

**CCRB Case # 202003881**